

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

LG CAPITAL FUNDING, LLC

Plaintiff,

v.

WINDSTREAM TECHNOLOGIES, INC.

Defendant.

17-cv-4394 (DLC)

Civil Action No.: ~~1:16-cv-04394(DAB)~~

~~PROPOSED~~
JUDGMENT AND ORDER

This matter having been commenced on August 25, 2016 by filing of a Summons and Complaint, the Court finds as follows:

1. Defendant was served on August 30, 2016, and its Answer to the Complaint was due on September 20, 2016. Dkt. 5.
2. Defendant failed to Answer, and Plaintiff moved for default judgment on March 13, 2017. Dkt. 8.
3. On March 17, 2017, Defendant appeared by counsel, Dkt. 11, and sought to vacate the clerk's default and dismiss the matter.
4. Following a conference before the Hon. Magistrate Vera M. Scanlon, the parties agreed that: (i) the clerk's default certificate and Plaintiff's motion for default judgment would be withdraw; (ii) the matter would be transferred to the Southern District Court of New York; and (iii) Defendant would waive all jurisdictional defenses upon said transfer. Dkt. 14.
5. The matter was transferred, and Defendant Answered the Complaint on June 12, 2017. Dkt. 21.

6. A conference was held before the Hon. Deborah A. Batts on July 6, 2017, whereby the parties agreed that: (i) Plaintiff would file an amended complaint; and (ii) Defendant would move to dismiss if still deemed necessary.

7. Plaintiff filed its First Amended Complaint on July 20, 2017, Dkt. 24.

8. Defendant moved to dismiss on the basis of Fed. R. Civ. P. 12(b)(6) on August 16, 2017.

9. On August 29, 2018, the Court denied Defendant's motion and ordered Defendant to answer the Amended Complaint by September 20, 2018. Dkt. 35.

10. On September 11, 2018, Defendant's counsel, Mr. Mark Basile, moved to withdraw as counsel. Dkt. 36.

11. On September 20, 2018, the Court granted Mr. Basile's motion and ordered Defendant's new counsel to appear within 60 days. Dkt. 38.

12. Having not appeared by counsel, the Court, on January 15, 2019, ordered Defendant's new counsel to appear within 30 days. Dkt. 40.

13. On March 28, 2019, with Defendant's counsel having not appeared, the Court ordered Plaintiff either to: "(1) show cause, or (2) move for default judgment against Defendant." Dkt. 41.

14. On April 3, 2019, the Clerk of this Court noted Defendant's default.

15. To date, Defendant has failed to answer, appear, or otherwise move.


16. Defendant, a corporation, is not a minor, is not incompetent, and is not a member of the military.

THEREFORE, it is ORDERED, ADJUDGED, and DECREED: That the Court enter judgment against Defendant:

- \$414,381.13
- i. For damages in the amount of ~~\$365,398.49~~;
 - ii. For attorneys' fees in the amount of \$19,125.00; and,
 - iii. For costs in the amount of \$475.00.

DATED: New York, New York
 , 2019

ENTER:



DENISE COTE
United States District Judge

4/14/2020